IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

WRIT PETITION NO. 2623 OF 2004

1. M.Guru Controls Pvt. Ltd. & anr. Petitioners
vs.
1. Union of India
& ors. Respondents

Mr. K.Shroff i/b. M/s.Akshar Law for the petitioners.

Mr.Rajiv Chavan with Mr.Y.R. Mishra for the respondents.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.

DATED : 11th October 2004

P.C.

Heard.

2. This writ petition is wholly misconceived and rather abuse of process of court. The petitioner has not come to the court with clean hands. He has suppressed material facts on both counts (one) that the petitioner was not accorded hearing by the authority and exparte order came to be passed and (two) that the copy of order in original was not received. As a matter of fact the learned counsel for the petitioner did concede that the plea set out in the writ petition that the petitioner was not accorded hearing is not correct. From the reply affidavit it is apparent that the Xerox copy of order in original was received by the petitioner. As a matter of fact, it is petitioner's own case that he instructed his advocate to file an appeal against the order passed by the Deputy Commissioner, Central Excise Division, K-II,

Mumbai-IV dated 4th September 2000. If the copy of the order in original was not received where was the occasion for the petitioner to instruct its advocate to file an appeal. It appears to us, no appeal having been filed against the order in original dated 4th September 2000 and limitation for filing the appeal against that order having expired, the present writ petition has been filed interalia for direction to respondent no.2 to provide for copy of the order in original so that fresh limitation for filing the appeal can commence.

3. All in all, we are satisfied that no case for invocation of extraordinary jurisdiction is made out.

4. Writ petition is dismissed in limine.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)